

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

July 21, 2014

Elisabeth A. Shumaker  
Clerk of Court

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PEDRO CHACON-OCHOA,

Defendant - Appellant.

No. 14-2126  
(D.C. No. 1:09-CR-02233-WJ-1)

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**ORDER**

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Before **KELLY, HARTZ**, and **MCHUGH**, Circuit Judges.

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Mr. Chacon-Ochoa, proceeding *pro se*, appeals from the judgment entered in his criminal case on December 16, 2009. Pursuant to Fed. R. App. P. 4(b)(1)(A)(i), Mr. Chacon-Ochoa's notice of appeal was due on or before December 30, 2009. It was not filed until July 17, 2014, over four years after the filing deadline expired.

The timely filing of a notice of appeal by the defendant is an inflexible claim-processing rule that may be forfeited if not properly raised by the government. *United States v. Garduño*, 506 F.3d 1287, 1290-91 (10th Cir. 2007). However, because Rule 4(b) implicates important judicial and societal interests beyond those of the parties, the court may raise the time bar *sua sponte* in certain circumstances. *United States v. Mitchell*, 518 F.3d 740, 750 (10th Cir 2008). This power is limited and should not be

invoked unless judicial resources and administration are implicated and the delay has been inordinate. *Id.*

Under the circumstances of this case, dismissal of this appeal as untimely is appropriate. Mr. Chacon-Ochoa's notice of appeal, filed more than four years after judgment was entered, was inordinately late, which implicates the important judicial and societal interests recognized by this Court in *Mitchell*. Accordingly, this appeal is dismissed.

A copy of this order shall stand as and for the mandate of the court.

Entered for the Court,

ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read 'Chris Wolpert', with a long horizontal stroke extending to the right.

by: Chris Wolpert  
Chief Deputy Clerk